MOTION FILED
SEP 20 1974

Supreme Court of the United States.

OCTOBER TERM, 1973.

No. 73-1191.

JOSEPH M. HOURIHAN,
PETITIONER,

v.

HAROLD DAKIN ET AL.,
RESPONDENTS.

Petition for Rehearing of Order on Petition for Writ of Certiorari to the United States Court of Appeals for the First Circuit.

JOSEPH M. HOURIHAN, PRO SE.
10 Westerly Street,
Boston, Massachusetts 02130.
(617) 524-2496

Table of Authorities Cited.

Cases.

Commonwealth v. Ross, Mass. Adv. Sh. (1972) 873, vacated and remanded sub nom. Ross v. Massachusetts, 410 U.S. 901 (1973), affd. sub nom. Commonwealth v. Ross, Mass. Adv. Sh. (1973) 839, vacated sub nom. Ross v. Ristaino (memorandum of Skinner, J., D. Mass., June 15, 1974) 8, 9, 16, 17, 18

DeFunis et al. v. Odegaard et al., U.S.S.C. No. 73-235, cert. granted 414 U.S. 1038, dismissed as moot, U.S. (1974); reported below, 82 Wash. 2d 11, 507 P. 2d 1169 10, 11

Gnotta v. United States, 415 F. 2d 1271 (8th Cir. 1969) 20

Statutes.

United States Constitution, Fourteenth Amendment 11

18 U.S.C. c. 47, Fraud and False Statements 7

18 U.S.C. § 1001 14

28 U.S.C. § 452 13

Discrimination in Employment Act of 1967 11

Miscellaneous.

Rules of the Supreme Court

Rule 58(2) 21

Rule 58(4) 13

Boston Globe, April 7, 1974 14

David Farrell, article, Boston Globe, March 3, 1974 17

Supreme Court of the United States.

OCTOBER TERM, 1973.

No. 73-1191.

JOSEPH M. HOURIHAN,
PETITIONER,

v.

HAROLD DAKIN ET AL.,
RESPONDENTS.

Petition for Rehearing of Order on Petition for Writ of Certiorari to the United States Court of Appeals for the First Circuit.

The petitioner here in respectfully moves this Court for an order (1) vacating its denial of the petition for writ of certiorari entered on April 15, 1974 and (2) granting the petition as grounds for justification for this motion, the petitioner states the following facts. As stated in the newspaper—"The two fold aim of (criminal justice) is that guilt shall not escape or innocence suffer." This is the sum and substance of my case since the beginning. I have been a victim of invidious discrimination for countless times.

In my motion filed with the District Court on June 4, and June 11. This is a fraud against the Government. I acquainted Judge Garrity of this fact at his pretrial hearing. Yet the Court saw fit to permit the guilt to escape punishment rather than permit a trial to prove the charge.

I wrote a letter to the Shipyard Commander on May 12, 1970 because I wished to withdraw this overtime complaint, solely because I could no longer stand the smirking hypocrite I had as an investigator. Yet my request was denied. Here the Commander denied me my Civil Rights when he refused to permit me to withdraw this complaint. But had the mental giants permitted my request I then would never have been permitted to file the complaint on the fraud against the Government.

When I realize Judge Garrity's denial of my appeal for lack of jurisdiction it is a mind, boggling decision. Therefore it is encumbent upon this Court to investigate the reason for Judge Garrity's erroneous decision and the lower court be set aright.

My case is actually another Watergate. The only difference is I am bound to stand alone. I have proved countless lies and contradictions and the whole defense is nothing more than a train of lies. My only fault is all the defendants are high ranking government officials. I have proven in my appeal these giants were insignificant stupid runts as I can prove if granted my writ.

I should never have gone to this added expense of filing this motion simply because nothing I have ever filed with the courts have ever been considered. I am accused of guilt and as such I must remain. Yet when I read in the papers three of the Judges to this Court were appointed to this Court by President Nixon. I believe then that simply because I have named Senator Brooke, a defendant in my

case, will not force a like decision as was rendered in the lower courts.

My case was deliberately made complex by the government. As a result of an extensive administrative revue, I informed Judge Garrity it produced nothing more than a voluminous volume of idiocies. I further charge for any investigator especially one possessed of special qualifications to compose such an idiotic volume he would have to be an idiot. It is also true for any official charged with the responsibility to revue this report when he accepted it as a true copy of the investigation it also follows that he must likewise be an idiot.

I sent the copy I was furnished to Senator Brooke on June 24, 1970. I sent a registered letter to the Senator since he refused me any further assistance to return my correspondence. The Senator obstructed justice when he refused to comply with my request. Senator Brooke also sent me information he was fully aware was not true on June 11, 1970 thereby obstructing justice once again.

Again Senator Brooke obstructed justice when he used his influence to promote a Captain Gundlach to the rate of Deputy. In appreciation there of the Deputy denied my appeal for the position in Nevada for a reason that is idiotic at best. The qualifications for this position I could more than doubly qualify. Yet the ineligible rate remained outstanding.

My appeal was then denied as untimely. A most asinine reason as I proved in my appeal. The pivotal figure in my appeal, Mr. Dakin, Head Employment Branch in the Shipyard, did conspire with Mr. Griffin, an Industrial Relations Specialist, and connived a scheme where in my appeal was denied as untimely. The defendants went unpunished because no court in the land would permit a trial to prove my case.

The unique part of this position in Nevada is I had been invited to compete for this position by written invitation on three separate occasions. One could not fail the written test and had to be rated solely on his experience. I was a twenty-seven year employee of the Navy and thirteen years as a supervisor, therefore, when I was declared ineligible to compete for this position it renderes the decision idiotic.

Since I have been denied my Civil Rights to compete for any position over the past twenty years. The last one was for a position at the Curtis Bay Coast Guard Yard in Maryland when I named the parties to this conspiracy, as additional defendants on May 29, 1973. The ineligible decision I received for this position is also idiotic.

A case I filed with the Courts is Exhibit (Case A). This case was settled most advantageous to the plaintiff. The only statement I resent is when this Mrs. Canty claims if she was white she would have been given the position. In reality it is solely her color that won her this most controversial award.

In Case D this case calls to heaven for justice. Simply because Mr. Hallman, was a large contributor to Senator Brooke's campaign and Mr. Gabriel, the U.S. Attorney was an assistant attorney general for Senator Brooke, this decision was wrong.

The case in rebuttal I wish to state is the case of Indian land refusal laid to Brooke. This case the Indians wanted eighty-six acres of surplus land in Hingham to build a school for all Indians. Yet Al Gammel, the regional administrator in G.S.A. in Boston, who was Brooke's former campaign manager states the reject of the Indian plans was made largely by Senator Brooke. This is yet another decision laid to Brooke that's wrong as did the decision he rendered in my case.

The U.S. Attorney, Mr. Gabriel, and his assistant, Mr. Segal, obstructed justice. In Memorandum in Support

of Defendants Motion to Dismiss states, "Plaintiff, by an Administrative Complaint (marked Exhibit A and attached hereto)". This is a down right despicable lie. I filed a Discrimination Complaint. A fact I got tired of informing the Court to no avail. Mr. Gabriel in his Memorandum also insists I filed an Administrative Complaint.

In Mr. Gabriel's Motion to Dismiss it states "and the Complaint fails to state a claim upon which relief can be granted". Again this is an obstruction of justice as proven by page 2 of Memorandum in Support (2nd paragraph) states Plaintiff seeks damages in excess of $10,000. and an appointment to the first available Group Superintendent position with retroactive back pay.

In Case B I attempted to point out to Judge Garrity here in was a case that was settled without the plaintiff having to go to a Federal Court. Yet the Judge used this to confuse the issue. He ordered Mr. Segal to research this exhibit to ascertain could I appeal to the Civil Service Commission instead of to his Court. This was positively a useless procedure to simply add more useless pounds of administrative revue to the thirty pounds Mr. Segal stated he had at this time.

On November 29, 1972 I filed a Court Order to compel Senator Brooke to once again return my correspondence to me, again, this Court Order was ignored.

It is a fact I filed more applications for promotions and competed in more written examinations than any other employee in the history of the Boston Naval Shipyard. For the past twenty years I was never considered for one position.

Captain Burk, the Shipyard Commander, did institute a program in the Shipyard regardless of qualifications, Negroes were to be given any promotion they sought. As a result of this asinine procedure Senator Brooke promoted

Captain Burk to Admiral. One can realize the utter and complete chaos that would result in a complex shipyard with unqualified personnel. Yet fate saved countless lives because the yard was closed before the plan was fully utilized.

There was yet another Admiral by the name of Zumualt. He also was pro Negro with a program to recruit and promote unqualified Negroes. The result was much more disasterous than Captain Burk's. Admiral Zumualt came closer to running the Navy hard and fast aground than any other individual in the history of the Navy. The evil he had done I know will live after him. He was responsible for the only mutinity in the Navy's history.

Judge Wyzanski here in Boston has also made another decision that only time will prove how utterly disasterous it will be. To recruit policemen regardless of qualifications will also be the same as the two Admirals' idiotic scheme to appease Senator Brooke.

Last month Judge Good of the State Court made it clear that he is not in sympathy with the minority preference decree. He said the U.S. Court of Appeals decision in the case, which substantially upheld Wyzanski was "atrocious". The fact this same Appeals Court upheld Judge Garrity's denial of my appeal is also atrocious. The Judge further stated, they made it by the seat of their pants. And they don't know the seat of their pants from their elbow. Who says they're right? I don't, Good remarked.

There is no doubt in my mind, if I could have presented my case to Judge Good I should have been granted a trial. Of course Judge Tauro was appointed by Senator Brooke. Yet he had stated he was going to hear my case as summary judgment. When I told this to Judge Garrity he stated he was not responsible for what went on in Judge Tauro's Court.

A U.S. Attorney for Maryland, Mr. George Beall said, "To maintain public rectitude, Beall said, "The law must be a sword of Damocles that hangs not over the heads of wrongdoers, but over the heads of those in the professions, business, industry and government who would condone misconduct in others." "Each success in bringing wrongdoers to justice he added marks a victory for good government and we should not despair." Strengthened with the foregoing I will fight on.

As far as the U.S. Attorney obstructing justice and the Judge ignoring my charge. There is a case U.S. District Judge Newell Edenfield in allowing lawyers for William A.H. Williams and his wife Betty Ruth two more weeks to file motions turned to prosecutor William p. Gaffney and said, "I understand they won't even let this man Williams, make a phone call—and he hasn't even got the money to buy a pack of cigarettes". In a rising voice Edenfield shook his finger at the assistant U. S. Attorney and said "We're dealing with a human being. This isn't any fifteenth century government you're dealing with".

How I wonder would Judge Edenfield have reacted to the fact the U.S. Attorney here in Boston obstructed justice. They made written statements to the Court they both are fully aware are lies and through their insistance the Court lacked jurisdiction was cause for my appeal to be denied. Or because I am not a prisoner no do I have any one to plead for me would Judge Edenfield also permit this injustice to prevail against me. Not being a legal scholas yet, I do believe that both attornies are guilty of fraud and false statements section of Title 18 of the United States Criminal Code.

When Senator Brooke sent me a letter on June 11, 1970 in which he states he can not properly intervene in my case. When one examines Case E in the exhibits this also constitutes an untrue statement.

For having named the guilty parties to the conspiracy to defraud the government I was severly punished. I was issued a Reduction in Force that was illegal. It is in direct violation of Veterans Preference. It was a conspiracy to get rid of me to give my position to a fellow Mason as the Group Superintendent whom I believe is a fellow lodge member. Yet the Shipyard Commander did issue a notice the lay off's would be in accordance with Veterans Preference. I applied for a Court Order to stop my Reduction in Force but it was ignored. The sad point of this was there was twelve bridge crane operators also illegally laid off to try and justify my R.I.F. I was contacted by a Mr. Grossman of the Civil Service Commission in reference to the Court Order I filed to block my R.I.F., Mr. Grossman informed me the procedure was legal. But I could file a formal complaint if I chose. This would permit him to conduct another idiotic investigation. The other day I read in the newspaper Mr. Grossman is named Chief Appeals Examiner. There is no doubt in my mind, again Senator Brooke rewarded Mr. Grossman for the idiotic way he insisted my investigation of my appeal be conducted. Of all the employees illegally laid off in the Shipyard I know of no one that received any help whatsoever from Mr. Grossman. Mr. Connolley conducted a hearing on my appeal for the Nevada complaint. To say he conducted an idiotic investigation is to put it mildly.

There was another U.S. District Court Judge by the name of Walter Jay Skinner and recently set aside the conviction of a thirty-one year old Roxbury man despite the fact that the State Supreme Judicial Court declined to hear the case. Skinner set aside the conviction of James Ross, Jr. now serving eighteen to thirty years sentence at Walpole State Prison for armed robbery because the trial Judge refused to ask the jurors whether they had

any racial bias. Judge Skinner said Ross's trial in 1970 before Superior Court Judge Edward F. Hennessey violated the constitutional rights of the defendants.

Ross and two other defendants, Roy Daniels and James Williams were convicted by a jury of ten whites and two blacks.

Here again is a most controversial case. What are my constitutional rights? How could I get Judge Garrity to reconsider my case? It is a fact Judge Skinner was appointed to the Federal bench by Senator Brooke.

Recently Senator Brooke spoke to the businessmen in Boston. He said, "the right to work and profit in our system of enterprise is a right to be shared by all Americans and must be shared equally, he said and unless minorities gain this power they will be virtually impotent in a society whose strength is founded on economic power and political power".

The Senator speaks as a hypocrite. How does he propose the right to work is a right to be shared by all Americans and must be shared equally. When he insists in using his influence illegally to promote unqualified Negroes.

In my case it is a pity when the governmental forces of the defense have no lack of funds and are in a position to bankrupt me even though if granted a trial I would be ultimately acquitted. The only fact that was most painful to me was I don't have any degree. I had to rely on information I obtained from books. When I graduated from high school over forty years ago and I was testifying against legal and mental giants who had degrees and they were continually saying I was wrong.

In yet another case the Nixon administration used the signing of a historic job discrimination settlement with nine major steel companies to serve notice that it will take similar action against other industries. Under Sec-

retary of Labor Richard F. Schubert said that in industries where race and sex discrimination exists we will be knocking on their doors and moving forward against them as we did with AT & T and the steel industry. It is the largest job discrimination settlement in the nations history surpassing the thirty-eight million agreement negotiated last year with the American Telephine & Telegraph Co. A spokesman for the nine steel firms said terms of the agreement entered as a consent degree in U.S. District Court in Birmingham, Alabama, represents an equitable settlement and eliminate the need for protracted litigation. The $30.9 million dollars in back pay will be distributed to 34,449. blacks and spanish surnamed male productions and maintenance workers hired before 1968 to 5599 women employees and to minority and woman employees who retired from those jobs in the past two years, payments will range from $250. to $3000.

How the government can work such wonders for any workers except me is hypocritical. I maintain I was discriminated against for a longer period of time than any one of these employees mentioned above.

It was most encouraging for me to read the statement of Mr. Calson of the Watergate case. He said, "I did it because in my own heart I felt perhaps I could help protect other defendants against their individual rights being abused when they are defendants in trials. And what's going on in this Country now in terms of interfering with a defendants right to a fair trial has got to be stopped". I certainly hope this Court will abide by this statement to grant me a trial.

Another case that is before this Court at this time is the De Fumis case. Of course this case is most unlike mine. I am compelled to stand alone. De Fumis had two constitutional scholars prepare his case Mr. Philip Kurland and

Alexander Bickell. They stated "if the constitution prohibits exclusion of blacks and minorities on racial grounds. For it must be the exclusion on racial grounds which offends the Constitution and not the particular skin color of the person excluded".

In my case there were no Negroes applying for this position in Nevada. De Fumis was allowed to compete for the school. The De Fumis case does raise the all important question of just what does the Constitution mean by equal protection? Just as the 14th Amendment was used to strike down racial barriers does it also allow giving preference to racial minorities.

The judgment below (the Washington Supreme Court decision) should be reversed because it condones the use of a patently unconstitutional means to an invalid end. This is also true with the procedure ordered by Judge Wyzanski here in Boston to hire school teachers and police officers.

In another case the giant Standard Oil historic settlement of a case brought by the Labor Dept. to award two million back pay to 160 older employees the company illegally discharged between December 1970 and Dec. 31, 1973 because of their age also agreed to rehire 120 of those workers. The settlement made history because it was by far the largest ever made under the title known 1967 Discrimination in Employment Act.

In my case I was illegally issued a Reduction In Force. It could have been due to my age or strictly vindictiveness. Most certainly the cause of this complaint arose here in Boston. As in my case there were also fourteen bridge crane operators also illegally laid off.

I could go on and on citing cases of discrimination that were settled most advantageously to the injured parties. But if the Court refuses to read my petition I am as I

was since I became embroiled in this fiasco. But since I have been denied every job I sought in the Navy Dept. for over twenty years. I now try and fullfil my life's ambition I sought position outside the Navy.

I applied for a position as Work Release Supervisor for the Prisons in Boston and was declared ineligible. I sought the position of Energy Inspector with the Internal Revenue in Boston again I am declared ineligible. I appealed this decision and as of now I have heard nothing. Yet for me to take this case to Federal Court in Boston, what chance do I have?

Yet now if I try to seek private employment I am sure when vouchers are sent to the Head of the Shop I will receive a discriminatory recommendation. Therefore My life's ambition is denied me. My life is now without horizons. If this Court fails to issue the writ I am forever doomed to utter and complete failure.

Petitioner clearly was entitled as a matter of due process to have the validity of his case being dismissed appraised by the Court of Appeals, on consideration of the case as it was tried as a pretrial for lack of jurisdiction in the trial court. But the principle was violated by the Court below and this error which is of constitutional proportions was repeated and amplified in the Governments Brief in Opposition before this Court.

When the Appeals Court deliberately in spite of all the facts presented did uphold a atrocious decision by rendering a like atrocious decision leaves me spell bound. I am the only citizen in the entire Country that has never been granted a trial.

JOSEPH M. HOURIHAN,
Petition Pro Se.

Sec. 2012 Motion for leave to file out of time petition for rehearing of order denying certiorari.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1973

No. 73-1191

JOSEPH M. HOURIHAN, APPELLANT PRO SE

v.

HAROLD DAKIN, RESPONDENTS

Petitioner respectfully moves for leave to file the annexed petition for rehearing of the order of this court denying the petition for writ of certiorari in this case entered on April 15, 1974. No timely petition for rehearing was filed inasmuch as I, as a result of the harsh and unusual decision of this Court, denying my writ of certiorari rendered me physically and mentally unable to proceed even if I was aware of this procedure at that time. I was of the opinion Rule 58(4) was final.

I made a grave mistake in my Reply Brief in Opposition, that if corrected, will give substantial weight to my petition. On page 3, line 15, the word *not* should be inserted so that the sentence reads, It had not been sent air mail.

I believe the two printers named in the brief are guilty of conspiring to obstruct justice when they were to blame for the untimely denial of my appeal.

In accordance with 28 U.S.C. 452 I hereby submit the following facts to cause the writ of certiorari to issue.

In my motion filed with the District Court on June 4, 1973, page 4, paragraph 2, this is a case of fraud against

the government. In my motion of June 11, 1973 again I informed Judge Garrity if he denied me a trial the fraud would be a success. There is no denying the fact this case arose here in Boston. It follows Judge Garrity most certainly had jurisdiction over this case. Yet he chose to grant Mr. Gabriel's motion to dismiss my appeal for lack of jurisdiction. A grave miscarriage of justice when he permitted the fraud against the government to be a success.

In the Boston Globe, April 7, 1974—Mr. Gabriel is going to empanel in Boston to handle the cases being investigated by United States Atty. James Gabriel's special investigations unit on corruption in politics. Gabriel's current efforts are centered on the broad field of political wrong doing and already have had considerable success.

It is most unusual Mr. Gabriel has to look elsewhere for corruption when he has refused to carry out his official duties and permitted this fraud against the government to succeed, solely because the party concerned with the fraud is a friend of Senator Brooke's.

Mr. Gabriel caused my appeal to be denied by Judge Garrity because he insisted on making false statements to the court as did his assistant, Mr. Segal. As evidenced stated in his Motion to Dismiss Mr. Gabriel stated, "the complaint fails to state a claim upon which relief can be granted." Yet in Memorandum in Support of Defendants Motion to dismiss on Page 2, it states "Plaintiff seeks damages in excess of $10,000. Therefore Mr. Gabriel and Mr. Segal have made written statements to the court they are both fully aware are not true.

Therefore in accordance with Section 1001, of Title 18 of the U.S. Code it is a crime for a person to lie to any federal official. Mr. Gabriel and Mr. Segal had motives to lie therefore deliberately misled his fellow federal officials, then they both are in clear violation of Section 1001, of

Title 18 U.S. Code. This is a grave matter that this court should resolve even if my writ for certiorari was filed untimely. Because two wrongs will not make a right.

It is fact the defendants by a variety of deliberate actions discriminated against me by a variety of deliberate actions. If the rights of one are surpressed it is, in the final analysis the freedom of all which is jeopardized. Yet there was an article in the Boston Globe by Mike Barnicle, which stated, "Too few of us realize the fact that we live in a commonwealth blessed with leadership. In most states, the legislature is no more than an Eden of clowns filled with travelling salesmen and chautauqua hucksters who can't see the difference between a priority and a cheap political gain." "At a press conference last December Gabriel announced the formation of a special crime unit that was to span the state looking for corruption." This was obviously a very clever smoke screen because the Feds knew better than to tell the dirty movie people that the law was after them. If they did that, there could have been no cover up. "So, by lulling the lawbreakers into thinking the government was out cracking down on murders, crooked pols and white collar criminals Gabriel and his gang were able to bust up a ring of prostitutes and finally lay their hands on a print of "Deep Throat." Very clever this Gabriel.

It is a fact Mr. Gabriel was appointed to his position by Senator Brooke. I think if it was not the fact Senator Brooke is a defendant in my case I should have received a trial from Judge Garrity. The fact is I was treated in the Boston Courts most miserably.

There was however a case in Atlanta, Georgia a federal judge sharply lectured prosecutors yesterday for the treatment given one of two persons indicted in the kidnapping of Atlanta newspaper editor Reg Murphy.

U.S. District Court Judge Newell Edenfield said, "I understand they won't even let this man Williams, make a phone call . . . and he hasn't even got the money to buy a pack of cigarettes." In arising voice Edenfield shook his finger at the assistant U.S. Attorney and said, "We're dealing with a human being. This isn't any 15th century government you're dealing with."

Here is a judge that is insuring prisoners have their rights protected. What rights did I have? Had this Judge heard my case what would have been his reaction to the fact the U.S. Attorney had delibirately made a false statement to the Court. It was at the insistence of the U.S. Attorney and his assistant that was cause for Judge Garrity to dismiss my appeal. Although I don't think Judge Garrity needed much persuasion to deny my appeal.

In another case U.S. District Court Judge Walter Jay Skinner set aside the conviction of a 31 year old Roxbury man despite the fact that the state Supreme Judicial Court declined to hear the case. Skinner set aside the conviction of James Ross jr. now serving a 18 to 30 year sentence at Walpole state prison, for armed robbery because the trial Judge refused to ask the jurors whether they had any racial bias. Judge Skinner said Ross's trial in 1970 before Supreme Court Judge Edward F. Hennessey violated the constitutional rights of the defendant.

Although the jurors were asked in general whether they had any prejudice or bias Skinner said they should have been asked specially about racial prejudice.

There is definitely a controversy between this decision of Judge Skinner and Judge Garrity. Regardless of the cases I can mention each case the defendant is always granted a trial. I do believe I am the only citizen in the country that was never, granted a trial. The fact if I was a prisoner I then should have had my rights and I could have re-

ceived legal assistance. Why does Judge Skinner reopen this Ross case? How would I go about getting the District or the Court of Appeals to reconsider my case?

U.S. Attorney Beall for Maryland spoke at Fanuel Hall here in Boston he said, "Government was working and the wheels of justice were turning." Beall is the man who last year gathered the evidence that forced former Vice President Spiro Agnew to plead no contest to charges of tax evasion and to resign.

To maintain public rectitude Beall said, "The law must be a sword of Damocles that hangs not over the heads of the wrongdoers, but over the heads of those in the professions, business, industry and government who would condone misconduct by others."

"Each success in bringing wrongdoers to justice" he added "marks a victory for good government and we should not despair."

If he was the U.S. Attorney in Boston I do believe he would not have obstructed justice as did Mr. Gabriel. There is no doubt in my mind if Spiro Agnew had had his trial in Boston I feel sure he would have made out a lot better than he did.

Mr. Jaworski had summed up the same idea in another way. He said in his book on Nazi war crimes. "Apathy and indifference to a course of wrongdoing of political leaders and acquiescence in their evil practice can prove to be as helpful as active assistance."

I do believe the courts here in Boston are fully aware of the fact they are part of a conspiracy to continually and consistently deny me my civil rights. Because of the fact Senator Brooke did from a conspiracy with a Deputy Gundlach to deny my appeal for the position in Nevada they both were fully aware such reason was idiotic at best.

There was a most enlightening article in the Boston Globe by David Farrell on March 3, 1974. It seems there

are four more judges to be named to the Federal bench here in Boston. The two U.S. Senators Edward Kennedy and Edward W. Brooke are involved in the quiet low key controversy over who is to appoint the judges. Also fueling the dispute is the fact that during the past 18 months Brooke and the Republicans have named three judges to the court.

They are Judges Joseph L. Tauro, Frank H. Freedman and Walter Jay Skinner. All three played important roles in the success of the Republican Party in the Massachusetts in the 1960's.

As for Judge Tauro I stand on the facts I presented to the court to cause Judge Tauro to be removed from hearing my case filed with the court on May 21, 1973. This article does fully explain Judge Skinner's motives to try and free Ross.

Mr. Gabriel had stated in his memorandum that an extensive administrative review revealed no basis for plaintiff's complaint. This is yet another lie. As I told Judge Garrity when Mr. Segal made this same charge against me in court. Every decision rendered against me as a result of the administrative review was unjust, illegal, and most discriminatory. Anyone reading my appeal would have to realize a case of invidious discrimination.

I presented a Religious discrimination complaint that proves invidious discrimination. Judge Garrity told me all I had to do was to file a complaint and automatically the Navy Dept. would investigate my complaint. This is a wrong statement and I would think a Federal Judge would be aware of this. One must prove conclusively religious discrimination complaint before the Navy will accept it for investigation. I fail to understand why Judge Garrity had made such a statement.

The reception I first experienced when I tried to file my appeal with Mr. Peck at the District Court. I fully

realized I was in for an uphill fight. I tried to research how to get my case transferred to some other state, but I was unsuccessful. This was even before I was assigned Judge Tauro to my case.

Senator Brooke in a speech to business men in Boston had stated, "The right to work and profit in our system of enterprise is a right to be shared by all Americans and must be shared equally." I fail to understand how Senator Brooke can condone his actions in my case. But most certainly I have been denied my right to work. I was issued an Reduction in Force on April 26, 1974 and it was illegal because I was top man on the retention register. There was a conspiracy formed by a Mr. Hughes, Superintendent of Public Works Shops, to give my job to one of his fellow Masons. By some scheme this friend of Mr. Hughes is given some queer title and then he assumed control of my men. Some of these men I supervised for twenty years. My main mistake is naming Senator Brooke a defendant.

Another reason to cause me to seek the writ of certiorari is my right to work outside is now also denied me. I filed for a position of Work Release Supervisor for the Penal Institutions Boston, Mass. I received my notice I am ineligible as to experience. I filed for a Energy Inspector U.S. Internal Revenue, Boston, Mass., again I was rated ineligible. Both of these ineligible rates are as idiotic as the original ineligible rate. There is no way anyone can justify these ineligible rates.

When vouchers are sent to Mr. Hughes as to my experience either Mr. Hughes fills these vouchers out most discriminatory or else he causes someone else to fill them out discriminatory for him. I appealed the ineligible rate for the internal revenue position. If in the procedure the ineligible rate is upheld. What chance would I have to take my case to the District Court?

In my dealings with the Civil Service Commission in Boston, I was forced to endure invidious discrimination. The reason came to light just yesterday, in the Boston Globe it stated Attorney Harry Grossman of Boston was named yesterday as chief appeals officer for the Boston field office of the new Federal Employees Appeal Authority. There is no doubt in my mind but the reason I could never get anywhere with Mr. Grossman in my appeals is because Senator Brooke gave him this white elephant position. The ridiculous part of this article is they waited until all illegal RIF's were carried out in the federal installations before naming Mr. Grossman to this position. I don't think anyone myself included that went to Mr. Grossman when issued an RIF that was illegal that any corrective action was ever forth coming.

The decision of the Appeals Court is mind boggling. When the court cites the Gnotta case as a comparison this is not a true statement and I made the court aware of this fact many times. I did not file an administrative complaint as did Gnotta.

The fact is the Court did not have to waste time in stating anything about my charges whether true or not. The court lacked jurisdiction. This is a most baffling decision. To what court may I turn to for justice. For me to point out errors to the legal giants I think is reason alone to grant the writ. When the Court stated the complaint in this case contains nothing but the most conclusory of charges. This is a down right lie. I proved each and every defendant guilty as charged. When the notice continues such cannot suffice, even with the indulgence granted a pro se litigant. Again here I would state I was never granted any indulgence from this or the district court. I do not seek pity from this court. I only seek justice. My faith in our American system has been badly shattered

since I became embroiled in fiasco, unless the writ of certiorari is issued the inscription over the doors of this court will be a mockery to justice. The inscription should be changed to read justice for the few. This is my last chance to obtain justice. Two wrongs do not make a right and to deny my writ injustice to me for over twenty years shall have prevailed.

The fact I have been forced to stand alone in this mess, the fact I did finally succeed to get my writ to this court. I think I presented my case in a most exemplary manner. It will serve to all down trodden that without a high priced lawyer one can still obtain justice from at least this court.

Therefore I pray this Court to issue the writ of certiorari that I may still seek employment to fill my life's ambition. At my present state my life will forever remain a world without horizons.

Although this petition for rehearings is filed after the expiration of the time prescribed in Rule 58(2) the grounds upon it is based arose after such time. It also was impossible for me to comply with said rule. This court clearly has power in its discretion and in the interest of justice to entertain the petition in these circumstances.

Respectfully submitted,

JOSEPH M. HOURIHAN,

Appellant Pro Se.